STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

The Higbee Company (Dillard's, Inc.), Appellant**,** **v.** **City of Davenport Board of Review,** Appellee.	**ORDER** **Docket No. 13-103-0908** **Parcel No. P1406-01C**

On January 20, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Bruce W. Baker of Nyemaster Goode, PC, Des Moines, represented Higbee Company (Dillard's). Attorney William R. Stiles of Dickinson, Mackaman, Tyler, and Hagen, PC, Des Moines, represented the City of Davenport Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

The subject property is a Dillard's retail anchor department store in the Northpark Mall located at 320 W. Kimberly Road, Davenport, Iowa. The Higbee Company (doing business as and referred to herein as Dillard's) owns and operates the property. Northpark Mall was built in 1973 and the Dillard's store was built in 2003 as a replacement of a former department store. It is one of five anchors at the Mall. According to the record, the improvements are 126,921 square feet. The site is 10.07-acres and it has 289,000 square feet of paved parking. (Ex. A).

In 2013, the property's assessment was $7,600,000, allocated as $1,379,300 in land value and $6,220,700 in improvement value. Dillard's protested the assessment to the Board of Review contending it was assessed for more than authorized by law under section

441.37(1)(a)(2). The Board of Review denied the petition. Dillard's then appealed to this Board contending the property's correct assessment was $5,460,000.

Dillard's submitted two independent appraisals of the property. Patrick Schulte of Commercial Appraisers of Iowa, Inc., West Des Moines, completed an appraisal and testified on Dillard's behalf. (Ex. 1). Likewise, Ted Frandson of Frandson and Associates, LC, Des Moines, completed an appraisal and testified at hearing. (Ex. 2).

The Board of Review also submitted an appraisal completed by Ranney Ramsey of Nelsen Appraisal Associates, Inc., Urbandale. (Ex. B). The following chart summarizes the appraisers' conclusions.

Appraiser	Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
Schulte	$6,430,000	$6,430,000	$6,660,000	$6,500,000
Frandson	Not Developed	$5,460,000	Not Developed	$5,460,000
Ramsey	$7,600,000	$7,150,000	$7,150,000	$7,600,000

In addition to the appraisals, Dillard's called its Director of Property Tax, James Robinson as a witness; and the Board of Review called Deputy Assessor Tom McManus.

James Robinson Testimony

James Robinson is the Director of Dillard's Property Tax. His responsibilities include managing both personal and real property tax for Dillard's three hundred department stores, distribution centers, and corporate headquarters.

Robinson explained that Dillard's owns 90% of the department stores in which it operates and leases the remaining stores. Of the three-hundred stores, only one is not an anchor store at a mall. When questioned about new construction of Dillard's stores, he explained that in the last five years all new buildings have been in lifestyle centers. He explained that lifestyle centers are subject to the same operating agreements as a mall, known as the Construction, Operating, and

Reciprocal Easement Agreement (COREA). A lifestyle center is akin to an open area mall, rather than an enclosed mall that is typically associated with suburban areas in temperate climates. To his knowledge, there are no lifestyle centers in Iowa or the Midwest.

Robinson testified that Dillard's stores typically sell clothing, cosmetics, and, in some instances, furniture or appliances. All Dillard's are associated with a mall and all are subject to mall agreements, which typically last twenty-five years. He stated that a typical anchor department store is about 85,000 to 350,000 square feet, with about 100,000 to 150,000 square feet being the average size.

Robinson explained that mall developers *always* offer incentives to anchor stores to entice them to locate there. According to Robinson, the usual incentive is free land: typically 10-acres. Additionally, it is common that mall developers offer free construction; and in some instances, like when obtaining a Nordstrom, developers may offer to provide fixtures for the store and money for the cash registers for the opening. He also noted that occasionally, mall developers would build parking decks for anchors, especially when they need land back from an anchor for other mall expansions. He said that in these cases the agreements include the mall paying for the construction and on-going maintenance, as well as being responsible for all taxes on the parking decks in perpetuity. In Robinson's experience, department stores that are not attached to a mall do not receive these incentives.

Robinson also described restrictions associated with the COREAs. He explained that a COREA is a mutually beneficial agreement between the developer and the department stores. The COREA dictates such things as building temperature, hours of operation, and requires the space operate as a department store for a specific period. Further, the COREA addresses cross-easements and restricts subdivision of the space. Robinson explained a COREA has a typical term of twenty-five years and, in his opinion, when a COREA is in place it results in a different use of space attached to a mall compared to a freestanding store without a COREA. For example, a freestanding store may convert to a different use; whereas, an anchor store must remain a department store and its use would only change towards the end of its COREA. He acknowledged that eventually agreements expire, resulting in fewer obligations for both parties.

Robinson asserts the department store market is shrinking and thus the competition has changed. For instance, there used to be a time where anchor department stores sold furniture; however, now this part of its retail has shrunk. There are also fewer players since some major department stores, such as Montgomery Wards, are going out of business. Further, as more lifestyle centers emerge, the stores in those developments also compete with the mall anchor stores.

Robinson reports that there are five Dillard's stores in Iowa:

- Northpark Mall, Davenport
- Mall of the Bluffs, Council Bluffs
- Crossroads Mall, Waterloo
- Jordan Creek Mall, West Des Moines
- Coralville Mall, Coralville

He explained that Jordan Creek is the best mall in Iowa and Mall of the Bluffs is a "dead mall." Robinson notes that the subject property's 2012 retail sales are roughly 50% less than the national average for Dillard's. (Ex. 1 p. 50). In his opinion, the subject property's poor sales are a result of location and not management. He testified the reason for the below average sales performance is due, in part, to the small population of the Quad Cities area and the age of the mall. It is an old mall, built in 1973, and he asserts the typical life span of a mall is between twenty-five to fifty years, unless it is a Fortress Mall. He describes a Fortress Mall, as a mall that has been around for fifty years and will continue to be around for another fifty years because of maintenance and the socioeconomic prestige of the area it is located.

Looking at the Historical Sales Data chart (Ex. 1 p. 50), the conclusion Robinson draws from the declining sales from 2006 to 2013 is that the subject property will eventually become an outlet store prior to its ultimate closing. On cross-examination, however, Robinson agreed that the sales from 2010-2013 would be better defined as flat rather than declining. While he testified he was not privy to the specific information, Robinson testified that the other anchors in Northpark Mall (Sears, J.C. Penney, and Younkers) are also struggling with sales. He later acknowledged he *did* have the sales data from these competitors, which he provided to Patrick Schulte who completed an appraisal of the subject property for this appeal.

Robinson also noted there have been changes in the tenancy of Northpark Mall that would indicate it is in decline. For instance, he testified the mall has recently leased space to a tattoo parlor, which has a customer base that does not typically fit into the Dillard's customer base. Further, the mall has leased space to a church, which he asserts is an indicator that a mall is in trouble and in need of filler tenants. When asked why Dillard's would not have the ability to vet these tenants if it did not consider them a benefit to its client base and the COREA was a mutually beneficial agreement as he testified to earlier, Robinson explained that the agreement was near its end, which limits authority either party may have under it.

Robinson provided important background regarding Northpark Mall and Dillard's stores in Iowa and nationally; however, he did not provide an opinion of value for the subject property.

Tom McManus Testimony

Deputy Assessor Tom McManus testified for the Board of Review and provided a background of the assessment. McManus explained the CLT Univers System assessment worksheet is used to value the subject property by the cost approach. (Ex. A). The total value for the subject property, based on this approach, is $8,343,700, allocated as $1,379,300 in land value and $6,964,400 in improvement value. However, an override was made to the improvement value reducing it to $6,220,700, to accommodate the Board of Review's 2011 decision to lower the assessed value to a total value of $7,600,000. McManus explained that the assessment history of the subject property initially increased due to state orders and jurisdictional revaluations. Dillard's has appealed the assessment a few times over the years but it has remained at its current assessed value of $7,600,000, since 2011.

McManus noted the income approach was also developed for the subject property but no consideration was given to this approach in the assessment. (Ex. A). Based on this approach, the subject property has an indicated total value is $8,308,400 (rounded). He explained the income and expense data used were averages for these types of properties and the data was not adjusted specifically for the subject property; but he asserts it demonstrates a consistency with the cost analysis.

Lastly, McManus testified that he personally measured Northpark Mall and determined the subject's total building area of 126,921 square feet.

Appraisals

<u>The Frandson Appraisal</u>

Frandson completed only the sales comparison approach to value. His conclusions were as follows:

Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
$5,460,000	Not Developed	Not Developed	$5,460,000

Frandson testified about his experience appraising mall anchors. In his opinion, anchors are unique and mall developers need them to entice people to the malls and, in turn, help generate revenue on the in-line space, which are the smaller retail units within the interior of the mall. He states that mall anchors are typically owner-occupied or leased at attractive rates to entice the best retailers. He explained that often the anchor retailer is given land and other incentives such as reduced Common Area Maintenance (CAM) costs, construction costs or reduced rent that is typically below market. Conversely, the anchor agrees to restrictions such as hours of operation, the type of products that can be sold, or restrictions on such things as "sidewalk sales." Because of these inherent incentives and restrictions associated with anchors, he believes a mall anchor is completely different from a freestanding store and he would not consider it for comparison.

Turning to his appraisal, Frandson testified that in addition to being preferred under Iowa law, in his opinion, the sales comparison approach is the only applicable approach for this specific property. His testimony is consistent with his appraisal report, which states that he did not develop the cost approach because in his opinion it would contain significant total depreciation and limited land sales for analysis. (Ex. 2 p. 35). Frandson further testified he did not complete the income approach because the subject property is owner-occupied and there are few comparable leases available for analysis.

In developing the sales comparison approach, Frandson testified that the sales he considered are all owner-occupant-to-owner-occupant sales or sales from an owner-occupant to the mall for a future known tenant. He acknowledges that some of the sales he included in his analysis are in better locations, with million-plus metropolitan statistical areas (MSA); but his focus was on the owner-occupant-to-owner-occupant sales.

The following chart is a brief presentation of these sales.

	Location	Date of Sale	Sale Price	Gross Building Area (GBA)	SP/GBA	Adjusted SP/GBA
Subject	Davenport, IA			126,921		
Sale 1	Colonial Heights, VA	Sep-12	$3,000,000	86,396	$34.72	$31.25
Sale 2	Louisville, KY	Jul-13	$6,000,000	120,000	$50.00	$50.00
Sale 3	Alpharetta, GA	Nov-10	$4,000,000	117,750	$33.97	$32.27
Sale 4	Miami, FL	Dec-10	$5,000,000	100,172	$49.91	$44.92
Sale 5	Frisco, TX	Oct-07	$10,170,800	220,000	$46.23	$36.98
Sale 6	Evansville, IN	Jan-07	$9,000,000	180,000	$50.00	$46.00
Listing A	Rapid City, SD	N/A	$2,500,000	101,500	$24.63	$38.42

Sale 1 is a Dillard's, which sold to a mall owner for the expansion of a Dick's Sporting Goods. (Ex. 2 pp. 44-52). This sale is located in a much larger community; however, because of its location there are also other mall competitors. Frandson testified this sale is also in a better mall than the subject.

Sale 2 is an anchor in Louisville, Kentucky, which Frandson notes is also in a larger MSA and located immediately off Interstate 65. (Ex. 2 pp. 53-62).

Sale 3 was a former Belks that sold to Von Maur. It is located in a suburb of Atlanta and Frandson identifies it as a good mall in a good area with upscale income and demographics. (Ex. 2 pp. 63-68). He testified it is "clearly a better mall than the subject."

Sale 4 is a Dillard's in Miami near the airport; Kohl's purchased it. (Ex. 2 pp. 69-74).

Frandson testified that Sale 5 is located in a Dallas suburb, the fastest growing city in the United States in 2009, with a median household income over $100,000. This was a new mall in 2000 and Dillard's bought space in it in 2007. Since the store's opening in 2007, its sales increased from $10,417,000 to $23,761,000 in 2011. (Ex. 2 pp. 75-82).

Sale 6 is located in Evansville, Indiana. Dillard's purchased the property. (Ex. 2 pp. 83-89).

Frandson also included Listing A located in Rapid City, South Dakota, which he considers an inferior location. (Ex. 2 pp 90-95). The seller, Target, moved from this mall to a newer power center. Ultimately, he did not give the listing any consideration in his final opinion.

With the exception of Listing A, Frandson testified that each of the sales he used were superior in location to the subject property. He testified that his location adjustments, which ranged from -10% to -20%, were conservative. When questioned about his adjustments, Frandson stated he believed they were appropriate, but could have been larger because the sales are clearly better than the subject. He also made adjustments for size, age and condition, land-to-building ratio, quality, finish, and functional utility. In addition, he made market condition adjustments to Sales 5 and 6 to account for "a significant retraction in retail sales since the beginning of the recent recession." (Ex. 2 p. 40).

After adjustments, his price-per-square-foot ranged from $31.25 to $50.00. He gave each of the sales some consideration and arrived at an opinion of $43.00 per-square-foot or $5,460,000 (rounded).

The Schulte Appraisal

Schulte completed all three approaches to valuation: cost, income, and sales comparison. Schulte's report indicates he is estimating the fee-simple value of the subject property, subject to zoning, easements, and restrictions of record. His conclusions of value were as follows:

Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
$6,430,000	$6,430,000	$6,600,000	$6,500,000

Schulte explained that he has appraised several anchor department stores over his forty-year career. In his opinion, anchor stores differ from big box or freestanding stores in that a mall has two or three entry doors bringing traffic into the store and eventually the mall, but freestanding stores have only one entrance. Further, because of the COREA, the zoning, and the design of a mall, it is very rare that an anchor is successfully modified for some other function. He explains that a retailer can own and operate a freestanding store by buying the land and building the store at its own expense; whereas, developers entice anchors with incentives, such as land and free construction, to locate at the mall. As a result, the anchors are then subject to long-term lease agreements, which do not bind the freestanding stores.

When Dillard's questioned whether Schulte ever used freestanding stores to value an anchor store, Schulte stated that he had but on a limited basis. However, he did not recall ever using an anchor sale to value a freestanding store, but believes it could occur. Schulte further explained that common incentives from developers "almost always" include the land and parking lot. For instance, he testified the two anchors at Jordan Creek Mall, Dillard's and Younkers, each received $4,000,000 and about $1,500,000 in paving, light, and other improvements. Further, he states in his report that the developer transferred land to both Dillard's and Younkers for no monetary consideration. (Ex. 1 p. 35). He asserts that this is because the retailers could choose to build a freestanding store that they have all the rights to, including the right to transfer ownership, convert to a different use, modify, or tear down; however, in a mall, they would lose those rights and therefore require incentives to locate there.

In describing the area and quality of the subject property, Schulte testified that of the two malls located in Davenport, Northpark is the best. Schulte also described Dillard's and Younkers as examples of high-price retailers and, therefore, have better interior construction quality such as more ceiling relief, granite and marble walk-way areas, and overall good finish throughout.

Similar to the testimony of previous experts, Schulte explained that all malls have a COREA, which specify what each store can and cannot do. While he testified that he was provided an amendment to the subject COREA, we note his report indicates he was *not* provided an actual copy of the COREA. (Ex. 1 p. 26). Regardless, he reiterates in his testimony and report that the existence of a COREA binds the subject property to "easements and covenants, which would prohibit its use for any other function than anchor department store use for a term of many years." (Ex. 1 p. 27). Effectively, Schulte identifies an encumbered value that is something less than fee simple.

Schulte testified that he relied on the plans of the subject property in determining the size. Based on these plans, he concludes a total of 126,000 square feet of building area. (Ex. 1 p. 29). He asserts this is the correct size; however, he admits there may be a different construction plan drafted at some point that he has not seen. We rely on the Assessor's records in this case, as McManus testified that he personally measured the subject property and determined the total building area of 126,921 square feet; further, we find the less-than-1% difference between their measurements statistically insignificant.

Schulte testified that he developed all three approaches because the subject is a unique property that does not sell on a regular basis. He explained that he is aware Iowa law prefers the sales comparison approach when it can readily establish value, but in this case he determined that none of the approaches alone is sufficient to render an opinion of value.

In his cost analysis, Schulte considered four land sales and adjusted them for differences. The following chart summarizes these sales.

	Location	Sale Date	Sale Price	Site Size (SF)	Price/SF	Adjusted Price/SF
Subject	Davenport	N/A	N/A	438,780	N/A	N/A
Sale 1	Davenport	Nov-05	$1,613,500	218,715	$7.38	$3.98
Sale 2	Davenport	Sept-07	$2,577,000	482,235	$5.34	$3.80
Sale 3	Davenport	Nov-11	$100,115	19,935	$5.02	$3.41
Sale 4	Waterloo	Jan-08	$2,000,000	458,689	$4.36	$3.49

Schulte adjusted the sales for market conditions, location, size, and zoning/easement restrictions. Because developers give land to anchor stores, there are no anchor land sales to analyze. Therefore, Schulte used four sales of sites not associated with a mall. He explained he made a downward 15% adjustment to all of the sales because of the COREA restrictions and the shape of the subject site, which necessitates multiple cross easements. Effectively, this adjustment reflects the restrictions or encumbrances imposed on the subject and, in our opinion, results in a value that is less than fee simple. Ultimately, he reconciles an opinion of site value for the subject property of $3.75 per-square-foot or $1,645,000, rounded.

Schulte explained that in developing his cost approach he relied on the *Marshall Valuation Service* manual for his replacement costs and that he has routinely tested this against actual market costs. As such, Schulte believes the *Marshall* costs reported are reasonable. He determines a replacement cost new (RCN) of $12,361,916. (Ex. 1 p. 39).

Schulte did not include any entrepreneurial incentive in his analysis or determination of RCN. In his opinion, when speculators build properties to make money, it is required. However, he did not include it in this case, because he asserts the subject property was built to be owner-occupied. Entrepreneurial incentive is defined as "the amount an entrepreneur expects to receive for his or her contribution to a project." APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 67 (5th ed. 2010). Entrepreneurial incentive is based on entrepreneurial coordination, which is defined as "the act of an entrepreneur combining land, labor, and capital in the development of real property; the agent of production that represents the investment of time, expertise, and equity by an entrepreneur (or developer) in the development of a property." *Id*. We believe that a *fee-simple* opinion of value would require consideration of entrepreneurial incentive.

After Schulte determined an RCN, he applied physical and external obsolescence. He does not believe the subject has any functional obsolescence. (Ex. 1 p. 42). He estimated physical depreciation for the building improvements using a straight-line age-life method. He estimates the subject building improvements as having an effective age of ten years and an economic life new of forty-five years, resulting in physical depreciation of 22.22%. (Ex. 1 p. 41). With regard to the site improvements, Schulte determined a RCN of $1,061,500 and applied a 60% adjustment for depreciation. (Ex. 1 p. 40).

In determining external obsolescence, Schulte relied on data he has compiled over the years of anchor department stores he has appraised. The following chart summarizes his analysis. (Ex. 1 p. 42).

Store	Dillard's	Dillard's	Dillard's	Younkers
Location	Waterloo	Davenport	WDM	WDM
Year Opened/Date of Incentives	1997	2003	2005	2005
Incentives/Discounts granted				
Market Value of Land (estimate)	$1,200,000	$1,645,000	$2,750,000	$2,720,000
Cash Incentive to construct	$0	$0	$4,000,000	$4,000,000
Paving/Lighting/Landscape/Misc.	$890,000	$712,000	$1,540,000	$1,382,500
Total Incentives/Discounts	$2,090,000	$2,357,000	$8,290,000	$8,102,500
Total Estimated Cost New (Incl. Parking)	$10,495,883	$9,410,252	$17,956,297	$13,270,848
External Obsolescence	20%	25%	46%	61%

In his analysis, Schulte determined that because of the required incentives to entice retailers to the mall, an anchor store suffers from 20% to 61% external obsolescence. From this range, he reconciles to a 50% external obsolescence adjustment, which he applies both to the building and site improvements in his cost analysis. He arrives at this opinion by dividing the total incentives (land, cash, and parking/landscaping) offered by the total estimated cost new of the improvements, including the incentivized parking/landscaping costs.

We question Schulte's decision to reconcile towards the upper end of the range, when the data at the upper end is of a brand new mall and included construction costs incentives yet the subject property was an addition to an existing older mall and did not include construction cost incentives. Moreover, we question his inclusion of the land in his analysis because he only applies the external obsolescence to his improvements in his cost analysis. By including the value of the land in the extraction of the obsolescence, then applying the conclusion to only the improvements, we believe it artificially reduces the indicated value by the cost approach.

Further, because Schulte bases the necessity of his external obsolescence adjustments on the restrictions applicable to the retail building improvements, we question why the external obsolescence adjustment was also applied to the site improvements. Regardless, by including external obsolescence, due solely to the subject's leases and restrictions, we believe the conclusions represent something less than an unencumbered fee-simple value.

In developing his sales comparison approach, Schulte explained his process in selecting sales. First, he believes anchor stores should be used and focused his search on such sales. Schulte testified that there were no anchor store sales at the subject mall or at the other competing mall in Davenport. He then expanded his search to Iowa sales of anchor stores and then ultimately expanded his search to anchor store sales outside of Iowa. He testified that he was biased and selected sales he was familiar with, even if they are older sales. For this reason, he chose Sales 1-4, which he states he is very familiar with – having appraised them personally or other properties around them. These properties sold between 2004 and 2007; they are the oldest transactions in the record. He also included Sale 5 because Dillard's gave him information on it and he felt it was a reasonable comparable. The following chart summarizes his sales.

	Location	Sale Price	Sale Date	Building Size	SP/SF	Year Built	Adjusted SP/SF
Subject	Davenport, IA	N/A	N/A	126,000	N/A	2003	N/A
Sale 1	Waterloo, IA	$5,000,000	Jun-04	212,594	$23.52	1969	$52.44
Sale 2	Cedar Rapids, IA	$3,500,000	Feb-07	114,156	$30.66	1979	$50.22
Sale 3	Bloomingdale, IL	$6,650,000	Apr-06	153,368	$43.36	1981	$47.51
Sale 4	DM, IA/Omaha, NE	$19,263,000	Jun-04	339,627	$56.72	1974-2000	$53.33
Sale 5	Louisville, KY	$6,000,000	Jul-13	128,439	$46.71	1998	$49.53

Schulte noted that Sale 1 sold in 2004, prior to the "crash of 2007." He testified that the buyer, an out-of-town investor, purchased this store for $5,000,000 and the remaining part of the mall in a separate transaction for $24,500,000. The store was originally built as a Sears; however, at some point Sears subdivided its space and leased a portion of it to Gordmans. Schulte made an upward 25%, or roughly $1,000,000 adjustment for the below-market lease.

Sale 2 is a former Montgomery Wards at Westdale Mall in Cedar Rapids. Steve and Barry's leased the property when it sold and according to Schulte were paying market rents at that time. It was a typical sale, but after the sale, Steve and Barry's went into bankruptcy and this mall has since weakened in the market place. Schulte made no adjustment for the leased fee conveyance of this sale.

J.C. Penney's leased Sale 3 for $4.72 per-square-foot when it was purchased. Schulte believes this sale is in a superior location because its gross sales per-square-foot was substantially higher than the sales of the subject mall. This was also a leased fee conveyance with no adjustment.

Sale 4 was a package purchase of a fee-simple anchor at Merle Hay Mall in Des Moines, a leasehold interest in an anchor at Westroads Mall in Omaha, and an anchor position at the Jordan Creek Mall in West Des Moines. Schulte reports the combined transaction as fee simple. Schulte provided a two-page synopsis of this sale; however, we do not find it necessary to recite the details. Based on his analysis, Schulte adjusted the $26,000,000 sale price to his determination of the price attributable to the two existing anchors at Merle Hay and Westroads Malls. In his opinion, it reflects a residual sale price of $19,263,000, which is what he reports and adjusts. This sale was a complicated package sale that occurred ten years prior to the effective date under appeal, and based on the combined size alone we do not find it similar to the subject. We question its inclusion in Schulte's analysis.

Sale 5, a Dillard's in Louisville, Kentucky is Schulte's most recent sale. However, the purchase negotiations appear to have occurred in 2008, but due to title work, it did not actually transfer until 2013. For this reason, we question whether a time adjustment should have been considered. This sale is located in a superregional mall with four to five anchors and is located just a half mile from another superregional mall. He stated both have high occupancy and high-end retail stores.

Lastly, Schulte identified four additional sales that he considered but determined were not comparable or relevant. (Ex. 1 p. 47-48). Because he did not use them in his analysis, we do not find it necessary to address them.

After adjusting the sales for differences, including location, building size, age/condition, quality/design, and land-to-building ratio his adjusted sale prices ranged from $47.51 to $53.33. He considered all of the sales and reconciled to $51.00 per-square-foot, or $6,430,000 rounded based on 126,000 square feet of building area. (Ex. 1 p. 48). Applying his conclusion to the 126,921 square feet of building area that we conclude is correct, the opinion would increase slightly to $6,473,000 rounded. We note that all of the properties Schulte selected would have similar COREA restrictions, as they were all anchor sales. Without adjustment for these restrictions, we believe this analysis results in a value that is less than the unencumbered fee-simple value.

Schulte testified that stores like the subject property are leased, even though many of them are also owner-occupied. He looked at other anchors in the subject mall, but was unable to find any leases, as they are all owner-occupied. He then looked for leases of anchors at other malls; and over the years, he has been the recipient of many Dillard's and Younkers leases, which he has also analyzed. Further, he researched *Dollars and Cents of Shopping Centers: 2008*. He testified that the publication ceased in 2008, but mall participants still rely on it. He relies on this publication; a comparison of the subject property's sales as a percentage of expected rent; and analyses of other comparable anchor department store leases to reconcile to a market rent of $5.00 per-square-foot. (Ex. 1 pp. 50-56). He then reconstructs an operating statement, reducing the effective gross income by expenses to arrive at a net operating income (NOI) of $526,406. (Ex. 1 p. 59). Schulte then analyzed comparable sales of anchor stores and freestanding stores, as well as considered a mortgage equity analysis and quarterly publications for national investment type properties in arriving at his opinion of a loaded 8.19% capitalization rate. The result is a value by the income approach of $6,430,000 rounded. (Ex. 1 p. 61).

In his reconciliation, Schulte gave the least consideration to the cost approach, and most weight to the sales and income approaches arriving at a final value conclusion of $6,500,000.

The Ramsey Appraisal

Ramsey also developed all three approaches to value. His conclusions were as follows:

Sales Approach	**Income Approach**	**Cost Approach**	**Final Opinion of Value**
$7,600,000	$7,150,000	$7,150,000	$7,600,000

Ramsey testified that he has experience performing appraisals on anchor malls. Ramsey identified Northpark Mall as the dominant mall in the Quad Cities, anchored by the subject (Dillard's), Younkers, J.C. Penney's, and Sears with sales of about $300 per-square-foot for the inline stores.

As part of his cost approach, Ramsey submitted six vacant land sales for comparison. The following chart summarizes his sales.

Comparable	Location	Sale Date	Sale Price	Size	Price/SF
Subject	Davenport, IA	N/A	N/A	438,780	N/A
1	6801 44th Ave, Moline, IL	Apr-12	$1,079,230	213,444	$5.06
2	7030 44th Ave, Moline, IL	Nov-11	$1,500,000	201,726	$7.44
3	5100 Fountains Dr NW, CR, IA	Dec-12	$5,548,628	771,448	$7.19
4	1125 Brandilynn Blvd, CR, IA	Jun-12	$4,600,000	763,171	$6.03
5	3920 Crossroads, Coralville, IA	Sep-10	$2,000,000	528,383	$3.79
6	214 Viking Plaza, Cedar Falls, IA	Jan-08	$2,670,000	458,687	$5.82

Ramsey's appraisal indicates that after adjustments, the land sales indicated a range of $3.79 to $7.44 per-square-foot. (Ex. B p. 68). However, his appraisal report does not include any adjustments or narrative explanations of differences between these land sales and the subject property's site. Ultimately, he concludes a value at the lower end of the purported adjusted range of $4.00 per-square-foot or $1,750,000 (rounded) for the subject site.

Ramsey testified that he relied on *Marshall Valuation Service*, specifically the category of mall anchor department stores, to determine the RCN of the subject improvements of $87.00 per-square-foot, or $11,303,127. Unlike Schulte, Ramsey applied 10% entrepreneurial profit. In his opinion, a developer of this type of property would not do so without anticipating making money. Further, he testified this would be appropriate in the cost analysis because the purpose is to duplicate the logic of a developer when they look at a project. We agree.

Ramsey then applied depreciation. He relied on the age-life method to determine the physical depreciation. He determined an effective age of the subject property of ten years and a total economic life of fifty-five years, which results in 18.2% depreciation (10/55).

Ramsey also applied external obsolescence, also known as economic obsolescence. He testified this obsolescence reflects "a failure of the asset to produce a return commensurate with its costs." He calculated this by comparing the estimated annual income with the required annual income necessary to produce an economic return. (Ex. B p. 70). This resulted in a sizeable shortfall of just over $500,000 and a capitalized shortfall of over $6,200,000. This results in 47.8% economic obsolescence of the improvements.

After considering all forms of depreciation, Ramsey concluded an opinion of value by the cost approach of $7,150,000. We note that there was an error in Ramsey's calculations. He based his costs off a total building area of 129,921 square-feet, rather than the actual 126,921 square-feet. The following chart summarizes his conclusion reflecting the corrected building size.

Total Square-Foot Cost	$87.00
Building Size	126,921
Replacement Cost New	$11,042,127
Plus Entrepreneurial Profit (10%)	$1,104,213
Plus Soft Costs (5%)	$552,106
IMPROVEMENTS COST NEW	$12,698,446
Minus Physical Depreciation (18.2%)	$2,311,117
Minus External Obsolescence (47.8%)	$6,069,857
Depreciated Cost	$4,317,472
Plus Depreciated Site Improvements	$961,995
Plus Site Value	$1,750,000
TOTAL DEPRECIATED RCN	$7,029,467

Correcting the error results in a value opinion by the cost approach of $7,030,000 rounded.

In developing his sales comparison approach, Ramsey selected eight comparable properties. (Ex. B p. 72). His criteria included looking first for operating, on-going department stores in regional malls and then turning to retail centers that were large, and in equivalent locations but not regional malls. As often as possible, he turned to fee-simple sales; however, because of the limited data available he did consider leased-fee sales. Because there were few sales available, he did not want to limit himself to one type of sales such as anchor stores only; therefore he included a variety of sales in an attempt to avoid the perception of ignoring what the market may indicate through other types of sales such as big box or leased-fee sales.

Ramsey did not find any sales in Northpark Mall or any other anchor sales in Iowa. He then searched nationwide and sought situations where the anchor tenant in a regional mall bought the improvements and continued the use as a department store. While he did find some sales that met these criteria, Sales 7 and 8, they were located in Florida. He testified that these malls were similar size and economic performance to the subject property.

The following chart summarizes Ramsey's comparable sales.

Comparable	Location	Sale Date	Sale Price	Interest Conveyed	Building Size	Price/SF
Subject	Davenport, IA	N/A	N/A	N/A	126,921	N/A
1	Cedar Rapids, IA	Mar-10	$5,500,000	Fee Simple	106,113	$51.83
2	Omaha, NE	Mar-08	$5,100,000	Fee Simple	103,312	$49.37
3	Salina, KS	Oct-10	$4,845,000	Leased Fee	64,239	$75.42
4	Cedar Falls, IA	Dec-12	$8,050,000	Leased Fee	86,584	$92.97
5	Onalaska, WI	Dec-10	$7,250,000	Leased Fee	86,432	$83.88
6	Boynton Beach, FL	Nov-10	$5,000,000	Fee Simple	99,577	$50.21
7	Coral Springs, FL	Dec-10	$5,000,000	Fee Simple	99,879	$50.06
8	Miami, FL	Dec-10	$5,000,000	Fee Simple	109,899	$45.50

Sale 1 is a big box store located along the Collins Avenue retail corridor in Cedar Rapids but not in a regional mall like the subject. It sold for a continued use as discount retail. Ramsey admits it is not a perfect comparable; but because of the size of the building, the age, and the use of the improvements in a good location, it is a relevant transaction.

Sale 2 is located in Omaha, and Target sold it to Garden Ridge a home goods retailer. It is located near a major regional mall, but is not in a mall itself. This property is older than the subject is, but had been remodeled and sold for a continued use as a discount retailer.

Sale 3 is a leased fee sale from Kohl's in a smaller community in Kansas. It is next to a major power center but not within the mall complex. Ramsey testified that its sales price is higher because of the long-term lease in place and the tenant's credit rating at the time of the sale. It is newer and smaller than the subject property.

Sale 4 is a sale-leaseback, which Ramsey explained helps provide some indication of capitalization rates for retail properties. It is located near a weaker mall and brought a higher price of nearly $93 per-square-foot because of the long-term lease.

Sale 5 is also a Kohl's that is located in a good retail location but not near a regional mall. It was also a leased fee sale requiring adjustment.

Sale 6 was a sale from Dillard's to Christ Fellowship, a church. When questioned by Dillard's about the verification of this sale, it became clear the transaction occurred in 2012, not 2014 as reported by Ramsey. (Ex. 5). It was also noted that there was discrepancy in the parcel numbers reported and the size of the site and improvements, which would result in a different sale price per-square-foot. (Ex.s 6 & 7). Ultimately, we will not dwell on the concerns of this comparable because Ramsey testified that he included it to demonstrate the price received for anchor stores even for a non-continued use and it does not represent the going concern of the subject property. We give this sale no consideration.

Sale 7 was a sale from Dillard's to Kohl's Department store. Ramsey testified that this mall, Coral Square, is about 940,000 square feet, which is comparable to the subject mall that is about 1,000,000 square feet. Its other anchors include Macy's, J.C.Penney's, and Sears.

Sale 8 is a Dillard's store that also sold to Kohl's in Miami International Mall. Other anchors in this mall include a Macy's Men and Macy's Home Store, J.C.Penney's, and Sears. This mall is comparable in size to the subject mall. Ramsey identified this property as having a 1:1 land-to-building ratio. When Dillard's questioned him about the actual site size being 8.01 acre as reported on Ex. 7, Ramsey agreed it would result in a different adjustment than he made in his analysis. However, Ramsey asserts the age/condition adjustment, which was calculated by an age/life method, would also change because of the site size error. (Ex. B p. 84). In his opinion, it would be offsetting and there would be no to minimal change in the adjusted sales price.

Ramsey adjusted the sales for property rights, market conditions (time), location, size, age/condition, and land-to-building ratios. (Ex. B, p. 82). He testified that the location adjustment takes into consideration whether the sale is located in a regional mall like the subject, or not. In Ramsey's opinion, this reflects the decision of retailers to buy in a location that they can sell product to their consumers, which includes competition and demographics. To do this, Ramsey compared the demographic strength of each comparable location within ten miles to the number of competing anchor stores within that same radius. (Ex. B, p. 84). He then compared this to the subject property and made upward or downward adjustments based on this analysis rather than its location as an anchor compared to freestanding.

After adjusting the sales, Ramsey determined a range of value from $50.53 per-square-foot to $88.08 per-square-foot. The median and average were $63.63 to $64.68 per-square-foot respectively. In his reconciliation, Ramsey testified that he believed the subject property should be slightly below the average and median indications. Further, he looked at the two best comparable properties 7 and 8, which were retailer-to-retailer sales in a regional mall and their adjusted prices were $62.58 and $55.51 per-square-foot respectively. He ultimately reconciled at $60.00 per-square-foot or $7,600,000 rounded.

In developing the income approach, Ramsey summarized retail leases of anchor department stores at major regional and super regional malls. He recognizes outliers in the lease data, and identifies the average rent per-square-foot is $4.17. He asserts that the subject property age, size, and position in a dominant mall would support a rent per-square-foot higher than the average and estimates the subjects rental rate to be $5.25 per-square-foot on a net basis. (Ex. B p. 87). He then reconstructs an operating statement, reducing the effective gross income by expenses to arrive at an NOI of $582,106. (Ex. B p. 88). Ramsey then relied on a mortgage-equity technique, market extraction, and investor surveys in arriving at his opinion of a loaded 8.154% capitalization rate. The result is a value by the income approach of $7,150,000 rounded. (Ex. B p. 92).

Ramsey found the sales comparison approach to be the most credible and because it is the preferred approach by Iowa law, he considered it as the best indicator of value.

In rebuttal, Robinson testified regarding the sales-per-square foot of Ramsey's comparable Sale 7 (Coral Springs) and 8 (Miami) from 2006 through part year 2010 in an attempt to show those properties are superior to the subject. (Ex. 9). We find minimal relevance to sales-per-square-foot data from roughly three or more years prior to the relevant assessment date. However, we understand Robinson's testimony is meant to bolster Dillard's contention that Sales 7 and 8 are not comparable to the subject or, at a minimum, require larger location adjustments than made by Ramsey. Ramsey made a negative 5% location adjustment to Sale 7 and no location adjustment to Sale 8. (Ex. B p. 82). In contrast, Frandson made a 20% negative adjustment in considering the same Miami sale. Robinson also testified that rent for the subject property would be no more than $3.50 per-square-foot based on Dillard's retail sales.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2013). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id*. The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

General Principles of Law Applicable to Assessment of Real Property

In Iowa, property is assessed for taxation purposes following Iowa Code section 441.21. Iowa Code subsections 441.21(1)(a) and (1)(b) require property subject to taxation to be assessed at its actual value, or fair market value. *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 778 (Iowa 2009).

> *"Market value"* is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property.

§ 441.21(1)(b). In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration." *Id*. "[A]bnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to eliminate the effect of factors which distort market value." § 441.21(1)(b).

The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 398 (Iowa 2009); *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method." *Compiano*, 771 N.W.2d at 398 (emphasis added). "Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding." *Id*. (citing *Soifer*, 759 N.W.2d, at 782); *Carlon Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). The first step in this process is determining if *comparable* sales exist. *Soifer*, 759 N.W.2d at 783. If PAAB is not persuaded as to the comparability of the properties, then it "cannot consider the sales prices of those" properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)).

> Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.

Id. at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Where the market value of the property cannot be *readily* established using comparable sales, one can turn to other factors to determine the value. § 441.21(1)(b) (emphasis added); *Soifer*, 759 N.W.2d at 779.

Assessors are permitted to consider the use of property as a going concern in its valuation. *Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513, 517 (Iowa 1985). When an assessor values property as a going concern, "he is merely following the rule that he must consider conditions as they are." *Soifer*, 759 N.W.2d at 788 (quoting *Maytag Co. v. Partridge*, 210 N.W.2d 584, 590 (Iowa 1973)). The assessor is "recognizing the effect of the use upon the value of the property itself. He is not adding on separate items for good will, patents, or personnel." *Id.*

Claim of Over-Assessment

To prevail on a claim that an assessment is for more than authorized by section 441.21(1), the law requires two showings. *Heritage Cablevision*, 457 N.W.2d at 597. First, the record must show the property is over-assessed; and second, what the fair market value of the property should be. *Id.*; *Boekeloo*, 529 N.W.2d at 276-277. If PAAB "determines the grounds of protest have been established, it must then determine the value or correct assessment of the property." *Compiano*, 771 N.W.2d at 397. Here, PAAB "makes its independent determination of the value based on all the evidence." *Id.*

Burden of Proof

Initially, the burden of proof in an assessment protest rests with the taxpayer, who "must establish a ground for protest by a preponderance of the evidence." *Compiano*, 771 N.W.2d at 396. However, if the taxpayer "offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden shifts to the board of review to uphold the assessed value." *Id.* at 396-397; § 441.21(3). Failure to shift the burden of proof is not equivalent to failing to satisfy the burden of proof. *Id.* at 397. "Ultimately, the burden of proof is one of persuasion," which "comes into play after all of the evidence is introduced at hearing." *Id.* at 397 n. 3.

"The statute not only requires two disinterested witnesses, it also specifically requires the evidence offered by a disinterested witness to be competent before the burden of proof shifts to the board." *Compiano* 771 N.W.2d at 398. "Evidence is competent under the statute when it complies with the statutory scheme for property valuation for tax assessment purposes." *Compiano*, 771 N.W.2d at 398. "[M]arket-value testimony by a taxpayer's witnesses under a comparable-sales approach is 'competent' only if the properties upon which the witnesses based their opinions were comparable." *Soifer*, 759 N.W.2d at 782 (noting "If the distorting sale factors or the points of difference between the assessed property and the other property are not quantifiable so as to permit the required adjustments, the other property will not be considered comparable."); *Boekeloo*, 529 N.W.2d at 279; *Bartlett & Co. Grain*, 253 N.W.2d at 88. If they are, an opinion would "constitute 'competent evidence' and the burden of persuasion" shifts, "otherwise it does not shift." *Bartlett & Co. Grain*, 253 N.W.2d at 88; *Soifer*, 759 N.W.2d at 783. However, the *Soifer* Court also stated the approach followed in Iowa is "[W]here the properties are reasonably similar, and a qualified expert states his opinion that they are sufficiently comparable for appraisal purposes, it is better to leave the dissimilarities to examination and cross-examination than to exclude the testimony altogether." *Id*. (internal citations omitted). Just because the evidence is competent, however, does not mean it is credible. *Homemakers Plaza, Inc. v. Polk Cnty. Bd. of Review*, 2003 WL 105220105220 (Iowa Ct. App.) (citing *Soifer*, 759 N.W.2d at 785).

"Factors that bear on the competency of evidence of other sales include, with respect to the property, its '[s]ize, use, location and character," and, with respect to the sale, its nature and timing. *Id.* at 783 (other citations omitted). Likewise, "[t]he use to which comparable properties are put need not be identical to the use of the assessed property." *Hy-Vee Food Stores, Inc. v. Carroll Cnty. Bd. of Review*, No. 3-546 / 12-1526 (Iowa Ct. App. October 2, 2013) (unpublished) (citing *Soifer*, 759 N.W.2d at 785). "Nonetheless, a difference in use does affect the persuasiveness of such evidence because 'as differences increase the weight to be given to the sale price of the other property must of course be correspondingly reduced.' " *Soifer*, 759 N.W.2d at 785 (quoting *Bartlett & Co. Grain*, 253 N.W.2d at 93).

Here, Dillard's has shifted the burden of proof. It has provided competent opinions of value from two appraisers that suggest the subject property's market value is less than the current assessment. It is therefore the Board of Review's burden to uphold the assessed value.

Analysis

The record contains three appraisals, two of which indicate the market value of the property is below the current assessment and a third that indicates the assessed value is accurate. In this case, Dillard's appears to argue that the sales comparison approach alone can readily determine market value of the anchor store and must be used. While all three appraisers provided a sales comparison approach to value, and Frandson only completed this approach, we are not convinced that it alone readily establishes the market value of the subject property. All three appraisers testified that mall anchor stores rarely sell for similar continued uses. We note that sales of anchor stores with the same continued use would be the best comparable properties when seeking the fee-simple opinion of value; however, there are few arm's-length sales of such properties. We also note each appraisal has its own relative strengths and weaknesses and, in considering them together, we find that substantial evidence indicates that the property's current assessed value of $7,600,000 is excessive. Taking into account the flaws contained in each opinion of value, our examination of the appraisals indicates the property's correct fair market value is approximately $6,600,000.

<u>Sales Approach</u>

Frandson concluded a value of $43 per-square-foot by the sales comparison approach using primarily mall anchor stores. However, we question the inclusion of Sale 1 and Sale 5 as they both were sales transactions involving a mall and either a former or future tenant. Given the extensive testimony and evidence showing the unique incentives and business relationships between mall owners and tenants, we question whether these sales represent normal, arm's length transactions and are a fair reflection of market value. In addition, Sale 1 was a purchase by an adjoining land owner, the Mall, and would therefore be an abnormal transaction under Iowa Code section 441.21(1)(b). We give no consideration to these sales.

Of the remaining sales Frandson considered, we question the 20% negative market condition adjustment to Sale 6. Frandson bases this adjustment on the "significant retraction in retail sales since the beginning of the recession." (Ex. 2, p. 40). However, Schulte and Ramsey's reports included data showing the relative increase in retail sales leading up to the assessment date of January 1, 2013. (Ex. 1, p. 50; Ex. B, pp. 51-54). This data would indicate that a 20% negative adjustment is excessive and, upon removal of the adjustment, the sale indicates a value per-square-foot of $57.50.

Ramsey concluded a value of $60 per-square-foot after consideration of mostly stand-alone retail stores located near malls. We give no consideration to Sale 6 as it was purchased by a church, which would typically make the property exempt under Iowa law if used for church purposes. Three of the properties sold subject to leases and although Ramsey adjusted for this fact, we are inclined to give more weight to the fee-simple sales in the record. We give the greatest consideration to Sales 7 and 8 which, like the subject, are anchor stores at malls and most comparable.

Based on the foregoing, the reasonable, and most similar comparable sales in Frandson's appraisal – Comparables 2, 3 and 4 (after removing the -20% time adjustment) and Ramsey's appraisal – Comparables 7 and 8, indicate a median of $52.75 per-square-foot and an average of $50.46 per-square-foot. At $52.00 per-square-foot, the indicated value of the subject property is $6,599,892 ($6,600,000 rounded).

While we give little consideration to Schulte's sales comparison approach due to his use of dated sales data, we note that he concluded a value of $51 per-square-feet for the subject by his sales comparison approach. We add that while he used dated sales data, his comparables were located, more or less, in the subject's Midwest market area and may more accurately reflect that market than the nationwide sales primarily relied on by the other appraisers. In total, Schulte's sales comparison approach supports a determination that the subject's market value is approximately $52 per-square-foot.

Income Approach

We find similar support for a valuation of $6,600,000 in the income approach. Ramsey concluded a market rent of $5.25 per-square-foot, despite the fact that the average of his comparable rentals was $4.17. Dillard's submitted a modified rental comparable sheet that concludes the average is $3.52 when excluding the closed Steve & Barry location and a non-enclosed center. (Ex. 8). We note that Dillard's calculations do not appear to use the lease rate in effect at the time of the assessment date. For example, the Sears property at the Missouri mall appears to include an escalation clause that establishes a rental rate as of January 1, 2013, of $6.82 per-square-foot. (Ex. B pp. 86-87). Instead, Dillard's calculations use the $2.07 per-square-foot rate set when the lease was entered into in 2001. As a result, the conclusion of $3.52 per-square-foot is artificially low. *See* APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 478 (14th ed. 2013) (indicating rent from escalation clause is used to determine potential gross income).

We give no consideration to rentals with leases entered into prior to 1980, unless they contain an escalation clause. We also give no consideration to the Steve & Barry location, the closed Neiman Marcus location, or the non-enclosed center. (Ex. 8). Taking into account, where applicable, the lease rate in effect as of the assessment date, the rentals show an average per-square-foot rate of $5.03 and a median of $5.00. Despite Schulte's use of dated lease data, he also arrived at a market rent of $5.00 per-square-foot. Using $5.00 per-square-foot in Ramsey's income approach results in an indicated value of $6,775,000 (rounded). Schulte concluded a value by the income approach of $6,430,000. The average of Schulte's income approach and the modified Ramsey income approach is $6,602,500.

Cost Approach

Ramsey used the incorrect square footage in his cost approach to value, which directly caused an overvaluation of approximately $120,000. After adjustment, Ramsey concludes an estimate of market value by the cost approach of $7,030,000 or approximately $55.38 per-square-foot.

Schulte also completed the cost approach to value and determined a value of $6,660,000. Although similar in most respects, there is a marked difference between the two appraisals in their valuation of the site improvements. Although both determined a replacement cost new in excess of $1 million, Ramsey concludes a depreciated cost of the site improvements of $961,995 whereas Schulte ultimately concluded a value of the site improvements of $212,300. Schulte applied 60% depreciation to the site improvements and also made a 50% external obsolescence adjustment. In contrast, Ramsey applied 18.2% depreciation and no external obsolescence adjustment. We question the need to apply an external obsolescence adjustment to site improvements when the impact of any external obsolescence would be primarily felt by the building improvements and note that Ramsey did not apply any external obsolescence to the site improvements. THE APPRAISAL OF REAL ESTATE, at 632-33. We also question the application of 60% depreciation to the site improvements, when Schulte applied 22% depreciation to the building, which was more or less consistent with Ramsey. As a result, we find Schulte's cost approach undervalues the subject. In total, the two cost approaches suggest the subject's value to be in excess of $6,660,000 but no more than $7,030,000.

Conclusion

Considering the three appraisals in the record and the approaches to value in each, recognizing their relative strengths and weaknesses, and giving most consideration to the sales comparison approach, we find the record supports the conclusion that the property's fair market value as of January 1, 2013, was approximately $6,600,000.

THE APPEAL BOARD ORDERS that the January 1, 2013, assessment of the subject property, Parcel P1406-01C, be modified to $6,600,000.

The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Scott County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 26th day of May, 2015.

Karen Oberman

Karen Oberman, Presiding Officer

Stewart Iverson

Stewart Iverson, Board Chair

Jacqueline Rypma

Jacqueline Rypma, Board Member

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